



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

DIRECTIVE 183 (REVISED & REISSUED)

**TO: NOTICE TO ALL PROPERTY AND CASUALTY INSURERS LICENSED TO
WRITE MOTOR VEHICLE INSURANCE POLICIES IN LOUISIANA**

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

**RE: MOTOR VEHICLE INSURER RESPONSIBLE FOR ALL TOWING AND
STORAGE SERVICE CHARGES**

DATE: JULY 28, 2020

Acts 2008, No.415, § 1, effective January 1, 2009, redesignated the provisions of Title 22, formerly comprised of La. R.S. 22:1 to 22:3311, into a new format and numbering scheme comprised of La. R.S. 22:1 to 22:2371, without changing the substance of the provisions. Directive 183, originally issued on March 31, 2005, is being amended to update the cited statutory provisions.

The LDI received complaints regarding the failure or refusal of property and casualty insurers writing motor vehicle insurance policies (hereafter "insurer") to pay for the towing and/or storage services associated with the incident from which coverage arose under the motor vehicle insurance policy. Based on complaints, some insurers have used the tactic of refusing to "take title" to a motor vehicle as the basis for them taking the position that they will not pay for the towing and/or storage services associated with a covered incident involving the motor vehicle. By taking this position, the insurer is operating under the erroneous technicality that since it did not actually have title placed in the name of the insurer that it did not "...assume or accede to the legal title of the motor vehicle..." and that the obligation to pay the towing and/or storage fees remains the sole obligation of the insured (the owner of the motor vehicle on the date of the incident).

Also, complaints were received by the LDI that indicate some insurers have used the alternative tactic of agreeing to pay for the towing and/or storage services but will subsequently reduce the net payment to the insured for the damage to the motor vehicle by the amount of the payment made for the towing and/or storage service charges.

The complaints described above are clear violations of the unequivocal intent of La. R.S. 22:1292. This law clearly states that for the insurer to be allowed to "... assume or accede to the legal title of a motor vehicle ..." the insurer is required to pay "... for charges for towing and storage services associated with the incident from which the insurance coverage arises." While the amount of the charge for storage services remains subject to regulation by the Public Service Commission, La. R.S. 22:1292 clearly establishes that the payment of the charges for towing and storage services associated with a covered incident remains the sole obligation of the insurer.

In addition to the above, I specifically caution all persons involved in the storage of vehicles that any storage charge that exceeds the fee authorized by the Public Service Commission may subject the storage person to the loss of all storage revenues associated with the storage of the motor vehicle involved in a specific incident and may subject the storage person to a civil fine not to exceed one hundred dollars per day, per violation, that may be levied by the LDI pursuant to La. R.S. 22:1292(D)(2).

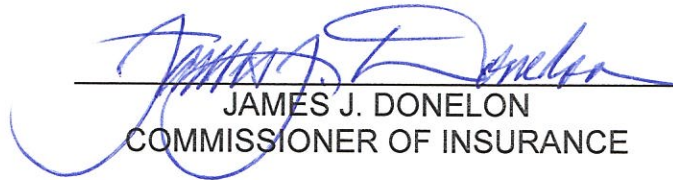
Charged with the duty of interpreting and administering the provisions of the Louisiana Insurance Code, I hereby direct every insurer that La. R.S. 22:1292(A) will become operative any time the insurer and the insured have reached an "agreement" with regard to the monetary damage to a motor vehicle associated with the incident from which the insurance coverage arises. Furthermore, pursuant to my authority to interpret and administer the Louisiana Insurance Code, any such "agreement" between the insurer and the insured with regard to the monetary damage to a motor vehicle will be construed as if the insurer did in fact "...assume or accede to the legal title of a motor vehicle..." as per the requirements of La. R.S. 22:1292(A).

You are hereby directed to comply with the unequivocal purpose and intent of La. R.S. 22:1292. Accordingly, any insurer not operating in compliance with the foregoing statutory requirements may be the subject of an administrative action for violation(s) of and/or unfair trade practices under La. R.S. 22:1964. Additionally, any person involved in the storage of a motor vehicle not operating in compliance with the foregoing statutory requirements may be the subject of an administrative action for violation(s) of La. R.S. 22:1292 and/or unfair trade practices under La. R.S. 22:1964. In addition to the penalties set forth above, violation(s) of La. R.S. 22:1292 may also be found to be a violation of La. R.S. 22:1964 and may subject the violator to the penalties set forth in La. R.S. 22:1969.

If there are any questions regarding this Directive, please contact the Deputy Commissioner for the Office of Property and Casualty, electronically at public@ldi.la.gov.

Please be governed accordingly.

Baton Rouge, Louisiana this 28th day of July, 2020.



JAMES J. DONELON
COMMISSIONER OF INSURANCE